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YOUNG NATIONAL COUNTRY PARTY OF AUSTRALIA

NEW SOUTH WALES STATE COUNCIL

STATE CONFERENCE, BATHURST, N.S.W., 7 JUNE 1981, 1.30 P.M.

# THE LAW AND MILTON FRIEDMAN

The Hon. Mr. Justice M.D. Kirby
Chairman of the Australian Law Reform Commission

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## A COMMON CAUSE

I am delighted and honoured to be invited to address the members of the New South Wales State Council of the Young National Country Party of Australia. I have previously had some contact with your organisation. I was pleased to contribute to your excellent publication Thoughtwaves. I unreservedly applaud young Australians (and indeed all Australians) who take an interest in the political life of the country. It is a precious feature of Australian life that we live in a society governed not by the whim of particular people but by a Constitution, legislation enacted by a democratically elected Parliament and interpreted and enforced through an independent and uncorrupted judiciary. It is vital that all Australians, but particularly the young, should take part in the organised political parties of our country. Only if this is done will those parties truly reflect the attitudes and opinions of our diverse, changing population. The important political, philosophical and economic debates of our times are sharpened by the democratic process. This was one of the chief points made by Lord Hailsham, the Lord High Chancellor of England, delivering in Sydney the first Robert Menzies Oration. Speaking in the Great Hall of Sydney University, Lord Hailsham reminded the audience that the banner of the Western communities was the Rule of Law, a government of laws not of men. The distinctive feature was a political process that permitted strong and sincerely held differences of view to be fought for in the public market place of ideas: the prize of Government Benches going to those political groupings which, alone or in coalition, could persuade and secure the support of the majority of their fellow citizens.

Lord Hailsham is at the one time head of the English judiciary, a member of the British Cabinet and a member of parliament in the House of Lords. He thus spans, as no Australian judge may do, the legislative, executive and judicial arms of government. He is perhaps uniquely placed, as a famous lawyer, an articulate conservative and a legal philosopher of note to comment on the law and its place in society. His message to us is equally valid to lawyer and layman. It is that we should not be distressed about differences of political opinion, economic persuasion or legal viewpoint. On the contrary we should rejoice in the fact that we live in free societies which not only permit but also encourage these differences of view. In an open community the clash of opinions, if fairly given voice, can undoubtedly advance the cause of civilisation. The law, which has hitherto been greatly sheltered from public scrutiny and public debate, is now increasingly coming under the microscope of community interest and attention. The Australian Law Reform Commission is one vehicle by which ordinary citizens can now have a say in the improvement of the legal system.

Fortunately, whilst our political leaders differ about so much else, there has been a general consensus amongst politicians of all persuasions that the parliamentary process needs help in the improvement of the legal system. This should scarcely surprise a politically alert audience. The world today has become so complex in the challenges it presents to parliaments, to the courts and to governments. The growth of the role of government, the changing face of business, rapidly changing moral and social attitudes and the dynamic of science and technology all present challenges to the legal order that require constant renovation of our laws.

It is was with a view of assisting parliament to face some of the challenges of change in the law that the Australian Law Reform Commission was established. In parliament, as the legislation was enacted to establish the Law Reform Commission, it attracted the support of all Members and Senators. The late Senator Ivor Greenwood, twice Attorney-General of the Commonwealth, gave the Bill full support:

> The Bill gives effect to what must be accepted as a desirable objective. It seeks to promote law reform in the Commonwealth. There is a need for reform of the law and court procedures, for the simplification of legal methods and for greater efficiency in administration of the law.....May I say that what I hope may emerge in due course is.....one national law reform commission which will co-ordinate the work of existing [State] law reform commissions and which will possibly, by the quality of its work and the manner in which it operates, tend to reduce the number of existing law reform bodies and to ensure that the work which is done is of such a character that it can be used by both the Commonwealth and States in appropriate areas of interest.[1]

Mr. Killen, now Minister for Defence, gave the Commission his strong support.

> I wish those who take part in the work of the Commission well. They face a momentous task, one of the most significant tasks ever given to any commission in this country. Whether the Commission will be able to bring about relief in those areas where relief is desperately needed is a matter of speculation, but the members to be appointed to the Commission will have the good wishes, I would suspect, of the great majority of members of the legal profession throughout Australia.[2]

Every member of the Law Reform Commission, under successive governments of the Commonwealth and under five successive Federal Attorneys-General, has devoted himself faithfully to the impartial service of the law and of parliament. Against the background of acute political differences in our country, this might seem a bold assertion. But the notion of bodies serving parliament in as impartial a way as possible and avoiding party political entanglement is, I am sure, one of the best features of the tradition of public service we have inherited in Australia from Britain. It does not always work. It does not always work well. But the notion of serving parliament with the best available interdisciplinary talent in the country towards the improvement of this discipline or that, is surely one to which we should aspire.

In the business of law reform, the process is made somewhat easier by the fact that, despite the other differences, the political parties of this country can generally agree upon the need to reform and modernise the law. Indeed, I suggest that it can probably be said that the political parties of Australian are not usually divided about the notion of reform itself. Speaking soon after he became Prime Minister, Mr. Fraser expressed an Australian viewpoint with which, I suspect, most citizens of this country would agree:

> There are many aspects of Australia's institutions where reform is needed. Reform is needed wherever our democratic institutions work less well than they might. Reform is needed wherever the operation of the law shows itself to be unjust or undesirable in its consequences. Reform is needed wherever our institutions fail to enhance the freedom and self respect of the individual. ... Australia has always been a country where constructive reform has been welcomed and encouraged. Achieving a better life for all Australians through progressive reform will be a continuing concern of the Government. The debate in Australian politics has never been over whether reform is desirable. Australians, whatever their politics, are too much realists to believe that no further improvement is possible and too much idealists to refuse to take action where it is needed. The debate has rather been about the kinds of reform and the methods of reforms that are desirable.[3]

MILTON FRIEDMAN AND THE NEW ECONOMICS

This, inevitably briefly and superficially, is the political background against which law reform in Australia operates. Some law reform in our country is done through the political process itself. Some is done through the initiative of Parliament. Some originates in the executive government and the permanent public service. A little is done in the courts. The pressures of change in Australian society are great. Permanent law reform bodies have been established to help parliament and the government to face up to the implication of changes.

The Australian Law Reform Commission is a small body. It has four full-time Commissioners and seven part-time Commissioners. It has a research staff of eight. It works only on projects that are specifically assigned to it by the Federal Attorney-General. At present there are eight such projects ranging from a major review of the law for the protection of privacy, through consideration of securing greater uniformity in sentencing of Federal offenders, the introduction of class actions, the recognition, in some way, of Aboriginal customary laws, the reform of insurance contract law and debt recovery law, revision of child welfare law and a major reconsideration of the laws of evidence as they are applied in Federal courts. This is an important and highly relevant program of law reform assigned to the Commission by the Commonwealth Government. Every one of the tasks involves not merely technical questions of interest only to lawyers. Each of the tasks is a matter of legitimate concern to ordinary citizens. It is for that reason that we have embarked upon what Mr. Fraser has called 'participatory law reform'.[4] By radio, television, public hearings, public seminars, the distribution of discussion papers, talkback programmes and addresses to conferences such as this, we have spared no effort to raise community debate about the law, its purposes and improvement in the areas assigned to us for review and report. A number of the reports of the Commission have been adopted at a Federal level. Most happily, several of the reports have now been adopted by State governments. Although the process of considering reports is often slow, the fact remains that a permanent institution has now been created to help Parliament with the 'too hard basket'. The support we secure from people with different and indeed conflicting political opinions is essential to the success of this experiment of law improvement.

Though I have said the Commission has scrupulously avoided party political bias, it is impossible, in the nature of things, to avoid social and economic controversy in the kinds of projects that have been assigned to the Commission by successive Attorneys-General. If we had received a program to deal with such esoteric and legalistic matters as 'the rule against perpetuities' or 'the Statute of Mortmain' or 'the law of limitation of actions' I have no doubt it would have been easier to avoid controversy and public debate. But in the nature of the projects which I have listed, it is simply not possible to avoid very important social and economic debates. Law reform commissions report to parliament upon laws proposed for application in the Australian community. Therefore, they cannot ignore the economic and political controversies which occur in society and which influence the acceptability and design of legal rules and legal institutions.

I suppose one of the most pervasive and dramatic developments of economics in recent years has been the popularisation of the views of Nobel laureate economist Professor Milton Friedman of the University of Chicago. According to Peter Jay, Friedmanism has become a central, perhaps the central issue in British domestic political debate. Following an important television series on BBC television in the spring of 1980, Professor Friedman published an influential bestselling book, 'Free to Choose'.[5] All serious students of politics today should get it and read it. As the Guardian newspaper said, Friedman's success depends very much on his clear, pungent prose and sharp wit.

I was in New Zealand last month when he breezed in. At the airport he was asked what was wrong with the New Zealand economy. He told a somewhat startled group of journalists that he had been in the country only three minutes. He needed another five minutes, he said, before he could answer. Of course, this was said in jest.

The announcement during the past quarter of significant cuts in the Federal public sector in Australia and the proposed transfer of some Federal functions to the States, represents an Australian Federal response to the argument being advanced by Friedman and his associates. Similar moves are well under way in Mr. Reagan's administration in the United States and in Mrs. Thatcher's government in Britain. Law reformers responding to government and parliament cannot ignore the economic environment in which their proposals will be considered and in which, if accepted, those proposals would operate.

One of Milton Friedman's constant themes is the need to give general economic freedom the opportunity of advancing, through market mechanisms, the aggregate wellbeing of the community. In one of the chapters of his book 'Free to Choose', he describes and denounces the 'tyranny of controls' which he says have unduly impeded individual initiative, often at great cost and frequently at a cost disproportionate to the gain of public protection that is secured. Friedman concedes:

> Freedom cannot be absolute. We do live in an interdependent society. Some restrictions on our freedom are necessary to avoid other, still worse, restrictions. However, we have gone far beyond that point. The urgent need today is to eliminate restrictions, not add to them.6

Friedman's basic proposition in respect of the design of new laws involving government intervention is a relatively simple one.

> We should develop the practice of examining both the benefits and the costs of proposed government interventions and require a very clear balance of benefits over costs before adopting them.7

The impact of Milton Friedman's thinking and the thinking of those economists and social scientists who agree with his general approach can now been seen in government action in many parts of the world. In Australia, the Prime Minister prepared an important address which was delivered in December last. In the course of the address he urged 'not as a dogma or creed to be adhered to regardless of the circumstances', but as guiding principles, the following propositions:

* the role of the government is to maximise the individual's control over ones own life;
* there is a need to limit the role and reduce the power of the State and to contain public expenditure;
* there is the need to uphold the private enterprise system in Australia; and
* in an age of turbulence and innovation, the government is concerned that the process of change should be a deliberate and considered one and that those things which most Australians value highly are not lost or damaged in the process.8

In the course of dealing with the private enterprise system, the Prime Minister said this:

> As part of its liberalism, the Government is fundamentally committed to a private enterprise economic system. In saying this I am not, of course, talking about the completely unrestrained laissez-faire 'robber-baron' form which capitalism sometimes assumed in the 19th century. I refer rather to a system which, while recognising the necessity for restraint in the degree of government intervention, is premised on the belief that what produces the best economic and political results is an economy based on private property and income in which normal economic activity consists of commercial transactions voluntarily

> entered into by individuals and groups. Capitalism in practice is full of imperfections which can be legitimately criticised. Measured by standards of Utopian perfection it falls short, as does every other system devised by man. But measured against another other system on offer or against the pre-capitalist past of Western society, its superiority is clear.[9]

The point must be made that neither Milton Friedman nor Malcolm Fraser have ever urged a completely unregulated and uncontrolled market system. I know of no political party in Australia, and certainly none of the major political groupings, which see such a totally unregulated Australia as possible or ever desirable. The debate, therefore, is about the proper function of laws and of governments and the limits of effective regulation of economic and other activity. The desire to contain the public sector's role and expenditure is part of a worldwide movement presently felt in most of the advanced western countries, to some degree or other. It is against this background that law reformers and others reporting to and advising government and parliament must perform their daily operations and their statutory functions. Though bodies such as the Law Reform Commission must maintain an independence from the government of the day, they cannot ignore the real world. They should not tailor reports to meet this or that whim of changing economic policies. They should not fashion their recommendations in the hope of 'second guessing' the politicians. They must not trim their sails in the expectation of according with the current economic or social fashion. But if they are to be of practical use to parliament and to the law making process and to contribute, in an effective way, to the business of improving the law, they cannot ignore the political and economic realities. Judging how far these should be taken into account is not always easy. But ignoring the real world, economic restraints and political possibilities is the surest way of turning a practical institution for the reform of the law into an irrelevant body of interest only to theoretical scholars. The Australian Law Reform Commission seeks to have its feet firmly planted in the real world, but at the same time to avoid party political entanglements which would be wrong in principle and ultimately dangerous and destructive.

## DEBT REFORM AND CLASS ACTIONS

Until recently it was usually accepted that the law was very much a matter for lawyers only. It was asserted that legal principles, developed almost exclusively by lawyers themselves, provided the solutions to all legal problems. The opinions of social scientists, including economists, were regarded as unimportant where matters of legal principle seemed to be involved. This view of the proper role of the law and the proper and distinctly limited role of the social sciences was seen most recently by the Law Reform Commission when it conducted a survey of judges and magistrates concerning

sentencing reform in Australia. The opinion was expressed in one quarter that the questions posed referred to mere 'matters of sociology'. It was suggested that it was no part of the judicial function either to express views or to answer sociological questions. Fortunately the overwhelming majority of judges disagreed with this perspective. The response rate to the survey was more than 75%. However, the action in one quarter does illustrate the feeling in some branches of the law that economics, statistics, psychology and other sciences have nothing substantial to contribute to the legal science.[10] It is a view of the law that the Australian Law Reform Commission has never held. On the contrary, our entire effort since the establishment of this Commission has been to bring together in the projects of reforming the law some of the best interdisciplinary expertise of the country, joining the law commissioners to help parliament with proposals for fundamental change in the legal system.

I imagine that it is when the Law Reform Comission is given a task relevant to business law that the most obvious and acutest debates about economics are bound to arise. Thus, the Commission has been asked to review the law of debt recovery in Australia, in a way that will be sensitive to the need to support the obligation of people normally to pay their debt but at the same time to assist poor but honest people who cannot cope with the credit card society and fall behind either because of unemployment, misfortune or plain bad management. Laws of debt recovery are not written on a blank page. To some extent the market can protect itself through procedures such as the credit reference system. But rules which fairly balance the rights of creditors and debtors and reflect the fair rights and duties of each must be developed in a way that is responsive to today's credit economy.

The Law Reform Commission's project on class actions also engenders keen debate. The class action is a procedural device, particularly developed in America, by which one litigant can bring proceedings on behalf of many other people similarly affected. In the greatest mass production economy of the world, the United States, the device has been developed extensively to provide greater equality in litigation. Where a mass produced product or service is defective, inevitably a legal problem may be mass produced. In Australia, actions must be brought individually when claiming damages. In the United States, they may be aggregated. Supporters of class actions in the United States have described the procedure as the 'free enterprise answer to legal aid'. On the other hand, opponents of the procedure in Australia have described class actions as 'business's final nightmare'. The acting director of the Victorian Chamber of Manufactures said they would be 'leeches' which would 'suck away the strength and vitality of manufacturing industry in Australia'. The Australian Financial Review even described the class action legal procedure as 'part of a concerted legal thrust to alter significantly

the legal framework within which business in Australia operates'.[12] Ironically a number of business opponents of class actions urged that the 'Australian way' of dealing with problems was not to go to court, as in the United States, but to establish regulatory bodies which could provide accessible administrative machinery to stand up for disaffected consumers. American proponents of the class action say that it represents an effective alternative to administrative bureaucracies. By equalising the litigation between government or large corporations, on the one hand, and any individuals with a legal claim, on the other, law-abiding conduct can be assured without the paraphernalia and expense of administrative agencies, of bureaucratic control, public servants and great public expense.

The Law Reform Commission is still considering its report on class actions. It has had numerous submissions put to it and all of these are being carefully weighed. The economic implications of the introduction of the procedure are being evaluated. Rarely has a debate on legal procedures elicited such a large controversy.

INSURANCE REFORM

The latest report of the Law Reform Commission deals with the subject of insurance agents and brokers.[13] It contains the clearest statement yet of the recognition by the Law Reform Commission of the need to take into account economic considerations in judging the need for reform and in the design of laws to achieve that reform. The report addressed a number of problems that have been shown to arise in the relationship between the ordinary member of the public seeking insurance and insurance intermediaries, whether agents or brokers. In part the report deals with the legal question of who is responsible when errors are made in proposals for insurance. If the person seeking insurance is innocent of misrepresentation, should the agent or broker be taken to be acting on his behalf or on behalf of the insurance company?

One special problem that came to light in the course of our inquiry was the fact that between 1970 and 1979, 27 insurance brokers collapsed. Their known losses amounted to $7.25 million, their actual losses probably exceed $10 million. The sum of known losses has doubled to $15 million in the 18 months since the Law Reform Commission's report was delivered to the government. A large proportion of these losses is ultimately borne by the insuring public. Should we be unconcerned about such losses? What is the correct response to them? Should we simply shrug them off in the hope that market forces will ultimately 'sort out' the reliable intermediaries from the unreliable, the honest from the dishonest? Here is an almost classic case of the problem for law reform where the decision made must reflect, to some extent, economic as well as legal concerns.

It is obvious that many of the governments of Australia, alarmed by the collapse of insurance brokers with significant losses to the insurance public and consequent damage to community confidence in insurance, have determined that something must be done. A Bill has already been introduced into the West Australian parliament to provide for a system of licensing insurance brokers with significant administrative regulation. Legislation has been foreshadowed by the relevant Ministers in New South Wales, Victoria and South Australia, unless Federal legislation is introduced. The Law Reform Commission, in its report, recommended legislation. That report is still under consideration by the Treasurer. The recommendation was made against the background of a frank acknowledgement of the need to judge the costs and benefits that are inevitably involved in any legislative control. Until now the costs of such controls have rarely been identified with precision. They have seldom been weighed against the desired benefit to judge the results of the equation in the way that Milton Friedman has urged should be done. In the Law Reform Commission's report the issue of cost/benefit is confronted in many places. For example, one of the guiding principles espoused by the Commission and adopted from the philosophy of the Trade Practices Act 1974 (Cwlth) is that:

> interference with freedom of competition is to be justified, if at all, by the public benefit which results from a particular form of regulation. ... Diminution of competition might have an adverse effect on the cost of insurance, on the range and quality of services offered and on the development of the market in response to the needs of the insuring public. ... Any forms of regulation which might have an anti-competitive effect on the insurance industry or on any section of it [should be avoided].[14]

Facing up to the problem of insurance broker failures, losses to insurers and to the insuring public, loss of insurance coverage despite payment of a premium, and lack of effective recompense, all of which can damage the community confidence in insurance, the Law Reform Commission had a number of options open to it

* Should it simply increase criminal penalties to require proper accounting and to punish speculative investments by brokers?
* Should it introduce a detailed scheme of licensing with compulsory insurance?
* Should it simply permit accreditation of 'reliable' insurance brokers by industry bodies relying on advertisements and persuasion rather then legislative force to uphold good standards or
* Should it provide for a system of registration with a scheme for compulsory professional indemnity insurance?
* Should it recommend that nothing be done?

In weighing the costs and benefits none of the first three alternatives appeared entirely satisfactory. The first might punish the broker but would give scant satisfaction to members of the community who lost out as a result of his defaults. The second could remedy the problem of misuse of client funds, speculative investment and so on. But the price might be too high. One of the effects of licensing would be to reduce competition by excluding people from the business of insurance broking and reducing the competition between those remaining. Often licensing results in unnecessary requirements as to 'fitness'. Furthermore it almost always requires a significant administrative bureaucracy to police the licences. Milton Friedman says that such a bureaucracy often takes on a life of its own, concentrating on bureaucratic aims rather than efficient protection of the public. The net result is sometimes an increase in the costs of goods and services.

The third alternative of accreditation, rather than being a compromise between protection and freedom, may often have the faults of both. It may not offer full protection to the insuring public, but at the same time it may have the effect of lessening competition. Accreditation assumes that members of the public are aware of the distinction between accredited and non-accredited brokers. It assumes that advertising the difference will come to their notice. Research suggests that to be effective, advertisements of this kind must be constantly repeated and prominent. The net cost would be significant if any attempt at genuinely protecting the community were made.

Having considered these various options (and the option of doing nothing) the Commission concluded that the pattern of losses proved (and doubled since the report was first delivered) amply justified a modest form of regulation. It recommended a system of registration of insurance brokers as opposed to licensing. No requirements of 'fitness' which would amount to anti-competitive limitations on entry were proposed. No anti-competitive educational pre-conditions were imposed. Moreover, because no detailed procedures of licensing and pre-entry enquiry were suggested, the administrative costs of the Law Reform Commission's proposal were small. The Commission recommended that these should be paid by brokers themselves, not by the public. The insuring public would be protected by requirements of trust accounting and by a new scheme for compulsory professional indemnity insurance. It was an ironical discovery which we made when we investigated the insurance intermediaries, that more than 40% of them were not themselves covered by professional indemnity insurance. People who were constantly selling insurance did not bother to get insurance for their own operations. Apart from these minimum requirements of basic regulation, the Law Reform Commission suggested that no regulation of insurance agents (as distinct from brokers) was necessary. In that area, and in much of the discipline of insurance brokers, the Commission urged that self-regulation had an important, vital part to play.

The modest, inexpensive, cost-conscious proposals of the Law Reform Commission were criticised in some journals. The economics editor of the Sydney Morning Herald, who had either not read or not understood the Commission's report, confused the proposals made in it. Although the Commission had distinctly rejected the notion that brokers should be licensed, the editor recorded that this had been our recommendation.

> It is a highly interventionist remedy, typical of the legal mind. It ignores many of the economic issues involved and falls back on the lawyer's conviction that all of the world's problems could be solved if only we had the right laws. Finding a lawyer who understands and respects market forces is as hard as finding a babywear manufacturer who understands and respects celibacy. The legally trained mind cannot grasp that it is never possible to defeat market forces, only to distort them so that they pop up in unexpected ways.[15]

Similarly, a recent editorial in the Melbourne Age, in discussing draft broker legislation that was said to be under consideration by Federal Cabinet, asserted that the legislation would require the creation of another '50 or 60' public service positions and would cost the taxpayer more than $1 million a year. If the editorial was referring to the draft legislation attached to the Commission's report, it was a distortion of the Commission's proposals. The Commission rejected calls for an intense form of regulation. It proposed a minimal system of regulation, mainly in respect of trust account requirements, which would only require one or possibly two public service positions, not the 50 or 60 stated in the editorial.

All this is 'good copy'. But it would surely be more relevant if it had been addressed to the proposals actually made by the Law Reform Commission. When we are condemned for the very proposals we have rejected, it is difficult not to look askance at the superficialities of journalism. Far from adopting a 'highly interventionist remedy' we adopted a stand that would have done credit to Milton Friedman himself. Far from assuming that 'all the world's problems can be solved by the law' we are clearly of the view that the law's role is distinctly circumscribed.

## CONCLUSION

Many years ago at Sydney University as an evening student I pursued my own studies in economics. One of my teachers was Professor Harry Edwards, now a Member of Parliament in the Liberal cause. He emphasised many times the need in the area of industrial relations, for greater symbiosis between lawyers and economists. I am sure that that need goes beyond industrial relations into many areas of the law and to almost every proposal for law reform. It is not possible to resolve law reform questions by simply

appealling to broad notions of justice, liberty and fairness. It is vital, in a time of restraint, staff ceilings, razorly activities and cut-backs that law reformers should keep their eye steadily fixed upon the costs of their proposals. The Australian Law Reform Commission is well aware of this rule. In all of its proposals it seeks out a cost/benefit analysis. Sometimes, of course, the costs are clearer to assess than benefits. The benefits of a more accountable administration or more responsive business sector may not be easily quantifiable in dollars and cents. But what is the value of a park to environmentally sensitive people in the neighbourhood? What is the value of a transplant kidney to a dialysed recipient? An economist may tell us that the benefit of education for literacy can only be valued in terms of the increase of a person's future income earning potential. However, money values cannot readily be placed upon the opening of the doors in a person's mind.

We are going to see more of the consideration of economic costs of the law and government. Already more lawyers are preparing for their discipline by thorough going training in economics. There will be a greater receptiveness in the courts and in law reforming bodies to wide ranging economic material. This has begun in earnest in the United States.[16] It will follow in Australia.

Milton Friedman is not the only economist of note in the world today. He has his supporters and detractors. But if an important theme of his writing is the need always to justify the costs and burdens of regulation, including legal regulation, that is the theme which most of us can support. It is a theme which the Australian Law Reform Commission puts into practice. I suggest that we must face squarely the fact that justice has a price and that the community must assess that price in determining how important it is to secure just laws.

I close as I began with a word of appreciation and encouragement. The future of our country is profoundly affected by the wisdoms and vision of its political leaders. Those who are looking clearly will see that a stable society, true to the Rule of Law, will endeavour to ensure that our laws are constantly renovated and modernised. One instrument that has been devised to help parliaments in this task is the Australian Law Reform Commission. So far it has maintained the support and approbation of all political parties. The challenges before the law today are greater than ever before. They are the challenges of a time of rapid change. I hope that what I have said will have convinced you that in the Law Reform Commission we adopt a sensible and practical approach to the tasks before us: including an approach that measures the costs of justice and of reform. I hope that what I have said will encourage some of you to take an interest in the work of the Law Reform Commission and that all of you feel able to support its efforts to make the laws of our country more appropriate to today and more sensitive to our country's needs.

FOOTNOTES

1. Commonwealth Parliamentary Debates (The Senate) 6 December 1973, 2594, 2596.

2. Commonwealth Parliamentary Debates (House of Representatives) 11 December 1973, 4713.

3. J.M. Fraser, address to the Melbourne Rotary Club, 21 April 1976, 1, cited M.D. Kirby, 'Law Reform, Why?', (1976) 50 ALJ 459.

4. J.M. Fraser, speech at the opening of the 19th Australian Legal Convention, (1977) 51 ALJ 343.

5. Milton and Rose Friedman, 'Free to Choose', Pelican, 1980.

6. id., 94.

7. id., 53.

8. J.M. Fraser, 'The Philosophical Basis of Liberalism', (1980) 5 Commonwealth Record 1842-3.

9. id., 1841.

10. See the Law Reform Commission, Sentencing of Federal Offenders (ALRC 15), 499.

11. Statement of the Victorian Employers Federation, 2 November 1979.

12. Australian Financial Review, 6 December 1979, 6.

13. The Law Reform Commission, Insurance Agents and Brokers (ALRC 16) 1980.

14. id., 10. See also id, 81-2.

15. Sydney Morning Herald, 25 May 1981.

16. Mathews v. Eldridge, 44 USLW 319 (1976).